THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.7492 OF 2007

Dated: 30th APRIL, 2007

BETWEEN:

Poreddy Anji Reddy and others.

… Petitioners

And

The Mandal Revenue Officer, Shamshabad Mandal, Ranga Reddy District and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

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ORDER:

The land admeasuring Acs.11.14 guntas, Acs.12.00 guntas and Acs.16.24 guntas comprised in survey Nos.179, 180 and 191 respectively situated at Jukal Village, Shamshabad Mandal, Ranga Reddy District belongs to Bokka Balakishta Reddy. P.Laxma Reddy and his two brothers, namely, P.Narasimha Reddy and P.Chandra Reddy, purchased the property in 1942 under unregistered document. They were declared as protected tenants (PT). But they did not obtain certificate under Section 38-E of A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950. In the pahanis for 1965-1966, the names of these persons were shown as pattadars. P.Laxma Reddy also donated an extent of Acs.5.00 of land in survey No.191 to Bhudan organization. He also filed declaration under the provisions of A.P.Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 declaring among others the land in survey No.191 admeasuring Acs.11.24 guntas. All the petitioners herein claim their right in the land as legal representatives and successors in title to the property.

The petitioners submitted applications under Section 3 of the A.P.Rights in Land and Pattadar Pass Books Act, 1971 (RoR Act, for brevity) and A.P.Rights in Land and Pattadar Pass Books Rules, 1989 (the Rules, for brevity) requesting to enter their names in the record of rights. Recording authority passed orders on 24.01.1992 in favour of petitioners individually in respect of the lands including the land in survey No.191. When the enquiry was conducted, respondents 3 to 5 raised objections but they did not prefer any Appeal against the proceedings of Mandal Revenue Officer (MRO), dated 24.01.1992. Nonetheless, in 1996, respondents 3 to 5 filed application before the first respondent claiming land in survey Nos.179, 180 and 191 based on the private sale deeds executed by P.Laxma Reddy and his two brothers. The MRO by proceedings, dated 18.07.1998, rejected the claim to record the names of persons related to respondents 3 to 5 and accordingly refused regularization. After unsuccessfully filing appeal, petitioners then filed O.S.No.3434 of 2005 on the file of
II Additional District Judge, Ranga Reddy District, for cancellation of proceedings of MRO, dated 18.07.1998. The suit is pending.

Respondents 3 to 5 did not prefer any Appeal before second respondent against the order of MRO in rejecting regularization of private sale. However, they filed an application in 2005 for correction of the revenue records and enter their names from the year 1994-1995 in respect of land admeasuring Acs.8.12 in survey No.191. By impugned order bearing No.C/2774/2005, dated 22.01.2007, second respondent set aside the order of Mandal Revenue Officer, dated 24.01.1992 recording the names of petitioners as pattadars and directed to restore old entries in the revenue records.

Learned counsel for petitioners strenuously submits that the Revenue Divisional Officer (RDO) has no *suo motu* powers of Appeal or Revision under the provisions of RoR Act. Secondly, he submits that the finding recorded by the MRO in 1992 after hearing the objections of contesting respondents operates as *res judicata* and that after long lapse of time, second respondent could not have interfered with the orders passed by the MRO in January, 1992.

Learned counsel for petitioners does not dispute that against impugned order, the petitioners have an effective, speedy and alternative remedy by way of Revision under Section 9 of RoR Act. The said provision empowers the Joint Collector to call for and examine the record of MRO/RDO in respect of any record of rights and either modify, annul, reverse or remit the matter for
re-appreciation. However, learned counsel submits that the RDO has no jurisdiction under the provisions of RoR Act or the Rules to re-open the matter and order correction of record of rights. Learned Assistant

Government Pleader for Revenue (Telangana) points out that Rule 13(2) of the Rules empowers RDO to correct the entries. He also points that the petitioners have not availed alternative remedy.

Section 3 of the RoR Act deals with preparation and updating of record of rights in all the lands. Section 4 enables a person acquiring any right in respect of land to make an application to the MRO. After receiving such application, the MRO is required to issue notice in writing as per RoR Rules to persons whose names are entered in record of rights, consider the objections and passed orders either entering or modifying entries in record of rights. Every order of recording authority/MRO passed under Section 5(2) of the RoR Act is amenable to an appeal under Section 5(5) of the RoR Act before the RDO. Notwithstanding the same, under Section 5(6) of the RoR Act, MRO shall have the power to correct clerical errors in the pass book. The orders of RDO under Section 5(5) of the RoR Act are final subject to the decision of the authority under Section 9 of the RoR Act. Rule 13(2) of the Rules enables the MRO/RDO, the District Revenue Officer, the Collector of the District and any officer designated by the Collector *suo motu* to test and revise the entries in the confirmed record of rights provided no Revision shall be made without giving an opportunity to the person concerned. It only means that even in a case where the aggrieved person filed the remedy of appeal under Section 5(5) of RoR Act and remedy of revision under Section 9 of the RoR Act can still approach the MRO or RDO or DRO or Collector seeking revision of entries, which were made earlier. Therefore, it is misconceived to say that RDO has no jurisdiction to order correction of entries in record of rights. The petitioners were given notice by second respondent, in response to which, they appeared through their counsel and they were heard.

The decision relied upon by the learned counsel for petitioners in **Thota Narasinga Rao v State of A.P.,**[1] is an authority for the proposition that under Section 5(5) of RoR Act, the RDO had no *suo motu* appellate powers. In para 10 of the said Judgment, adverting to Rule 13 of the Rules, this Court held as under.

> Therefore, there cannot be any manner of doubt that *suo motu* exercise of powers by the RDO would be *ex facie* illegal. Whether Rule 13(2) of the Rules can save the situation? In the counter affidavit filed by second respondent, it is admitted that the report sent by the MRO on the representation submitted by the fourth respondent was treated as an appeal under Section 5(5) of the Act. Without anything else, it must be held that the exercise was *ex facie* illegal. Rule 13(2) of the Rules also does not confer any power to cancel PPB/TD. In exercise of their general powers of

supervision, MRO, RDO, Deputy Collector, DRO and the Collector of the District are conferred the power 'to test and revise the entries in the confirmed record of rights'. The term 'record of rights' is defined under Section 2(9) as to mean 'records prepared and maintained under the provisions or for the purpose of the Act', whereas 'title deed and pass book' means, the title deeds and pass books issued under Section 6-A of the Act. As the 'title deed and pass book' do not find a mention in Rule 13(2) of the Rules, it is not possible to accept the submission that the RDO can *suo motu* cancel the PPB/TD.

The order passed by the MRO either under Section 3, 4 or 5, or any order passed by the RDO under Section 5(5) of the RoR Act are subject to orders of revisional authority under Section 9 of the RoR Act. This is speedy effective alternative remedy as the verification of records is required. The petitioners are given liberty to avail the remedy, in which event, without being influenced by any of the observations made hereinabove, the revisional authority shall examine the case.

The writ petition, with the above observations, is accordingly dismissed. No costs.

(V.V.S.RAO,J)

30.04.2007.
pln

[1] 2007 (1) ALD 500